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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,219	10/16/2003	David M. Drouin	rio-4	9460
27087	7590	01/17/2006	EXAMINER	
MICHAEL B. EINSCHLAG, ESQ. 25680 FERNHILL DRIVE LOS ALTOS HILLS, CA 94024			CAO, ALLEN T	
			ART UNIT	PAPER NUMBER
			2652	

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/688,219

Applicant(s)

DROUIN, DAVID M.

Examiner

Allen T. Cao

Art Unit

2652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this

Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3-6, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith (US. 6,545,839 B2).

Smith discloses a small "form factor" disk drive 11 for use in an appliance 63, which disk drive having a connector side 24, a removal side (see figures), and a lateral side (see figures); and a gripping mechanism 91 affixed to a lateral side of the disk drive (particularly figures 18-20); wherein a portion 95 of the gripping mechanism extends beyond the removal side, all as set forth in claim 1.

Smith does not disclose that the gripping mechanism is affixed to cover substantially "all" of the lateral side.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the gripping mechanism affixed to cover "all" of the lateral side instead of a portion of the cover through an obvious routine choices of an ordinary skill in the art in order improve the attachment characteristics between the gripping mechanism and the cover.

Regarding claim 3, Smith discloses that the portion is a pull tab that is "strong enough" so that it may be gripped to extract the small form factor disk drive from the appliance (column 6, lines 28-30).

Regarding claim 4, Smith inherently discloses that the pull tab is "thin enough" not to interfere with normal operation of the appliance.

Regarding claim 7, Smith discloses that the gripping mechanism is affixed with an adhesive (column 6, lines 13-15).

Regarding claim 10, Smith inherently discloses that the surface of the pull tab has "high" friction (column 4, lines 45-49).

Regarding claims 5 and 6, Smith does not disclose a door; however, Smith discloses that the gripping mechanism is flexible, stiffness and strength to return to the stowed position (column 5, lines 19-23; figures 7-8 and claims 2-3).

Therefore, assuming there is a door, one of ordinary skill in the art should recognized that the gripping mechanism should resumed it shape after the door is opened and folded by the door when it is inserted therein.

Regarding claim 8, Smith does not disclose that the gripping mechanism is about 0.025 mm thick.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to manufacture the gripping mechanism of Smith with the thickness of 0.025 mm through an obvious engineering routine lab experimentation and optimization to reduce the thickness of the gripping mechanism in order to reduce the thickness of the drive, thus provide a more compact drive.

3. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Olzak et al (US. 5,500,518).

Smith discloses that the pull-tab is roughness (column 4, lines 42-48); However, Smith does not clearly disclose that the pull tab includes protuberances.

Olzak et al discloses a memory card 16 having a gripping mechanism 2 including protuberances (10, 10A).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the pull tab of Smith with protuberances as taught by Olzak et al to improve the gripping characteristics.

#### ***Response to Arguments***

4. Applicant's arguments filed 10/28/05 have been fully considered but they are not persuasive.

In the REMARKS, Applicant asserts that the rejection is not proper because:

"Applicant respectfully submits that the Examiner has utilized improper hindsight in making this rejection. In particular, Smith provides no teaching or suggestion of any kind whatsoever for providing the gripping mechanism to cover all of the lateral side. In particular, the Examiner asserts that one of ordinary skill in the art would do so to improve the attachment characteristics between the gripping mechanism and the cover. However, Applicant respectfully submits that nothing in Smith indicates in any way that the grip disclosed in FIGs. 18-20 is deficient in this manner. Specifically, Applicant respectfully submits that attachment of the gripping mechanism over the entire lateral surface provides easier extraction since, using such a gripping mechanism, the disk drive would not tend to rotate as much as it would if it were extracted using the small

grip disclosed in FIGs. 18-20 of Smith. Further Applicant respectfully submits that there is no teaching or suggestion in Smith of any kind whatsoever relating to this unobvious advantage of the gripping mechanism of claim 1."

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Smith has been relied upon to disclose a small "form factor" disk drive 11 for use in an appliance 63, which disk drive having a connector side 24, a removal side (see figures), and a lateral side (see figures); and a gripping mechanism 91 affixed to a lateral side of the disk drive (particularly figures 18-20); wherein a portion 95 of the gripping mechanism extends beyond the removal side, all as set forth in claim 1. However, Smith does not disclose that the gripping mechanism is affixed to cover substantially "all" of the lateral side.

The Examiner maintains that it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the gripping mechanism affixed to cover "all" of the lateral side instead of a portion of the cover through an obvious

routine choices of an ordinary skill in the art in order improve the attachment characteristics between the gripping mechanism and the cover.

For Applicant's arguments regarding claims 5-6 and 9. The Examiner also maintains the rejection is proper as set forth, in the above Office Action.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Allen T. Cao whose telephone number is (571) 272-7569. The examiner can normally be reached on Mon - Thurs (7:30 - 6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on (571) 272-4483. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Allen Cao', with a long horizontal flourish extending to the right.

Allen Cao  
Primary Examiner

AC  
January 11, 2006